
COLLECTIONS/RECEIVABLES

FINDING: Due to a lack of comprehensive collections and receivables policies, the state is failing to collect revenues owed in fees, fines, penalties and state taxes. As of September 2000 approximately \$776 million was reported as outstanding receivables and of that amount \$361million is estimated to be uncollectible.

As a result of reports by the Legislative Auditor, the Select Committee on Fiscal Affairs began its hearings with the issue of outstanding receivables and collection practices in state agencies which collect large amounts of revenue, including the Office of Motor Vehicles in Public Safety Services, Wildlife and Fisheries, Natural Resources and Revenue. In addition to these agencies, the Office of the Treasury and the Division of Administration also participated in these discussions.

Wildlife & Fisheries: The Legislative Auditor in a May 2000 audit of the Department of Wildlife and Fisheries (DWF), which criticized the department for not having adequate procedures for the collection of receivables for civil penalties. Out of about \$3.5 million in receivables for civil penalties for Class One violations and civil restitution, about \$2.6 million had been outstanding over one year. Based on departmental reports and discussions with personnel, no evidence existed of any attempts to collect these outstanding penalties. The department testified that with the implementation of the new Point of Sale License system, outstanding fines are being identified and must be paid prior to issuance of a new license. However, the audit report recommended that the department establish and implement written policies and procedures for the collection of all civil penalties.

Public Safety Services: The Legislative Auditor reported on findings from the 1997 audit of the Department of Public Safety & Corrections, Public Safety Services (DPS) which criticized the department for having \$996,000 in NSF checks outstanding. The Undersecretary at that time responded that Act 1455 of 1997 would allow the department to cancel an individual's driving license and vehicle registration if it was paid for with an NSF check. The 2000 audit, which was still in progress at the time of the hearings, indicated another finding relative to weaknesses in the department in these collections. Specifically: the department had no comprehensive listing of all NSF checks; there was no system of notifying the field offices when NSF checks were received from an individual or business so that future checks would not be accepted by them; and lastly, the department had not revoked individual driver's licenses or vehicle registrations if they had been paid for with an NSF check. As a result of these meetings the DPS has implemented a number of steps to improve collections including; revising their NSF policies and procedures, establishing a NSF database, and tightening their check acceptance policies.

Revenue: The Legislative Auditor reported on findings from the August 2000 financial audit of the Department of Revenue which found a total of \$308 million owed by delinquent taxpayers. Of this total \$124.9 million was estimated as uncollectible and \$172 million was over one year old. The report further found that:

- The ten largest delinquent taxpayers as of March 2000 owed approximately \$9.4 million collectively.
- Louisiana has no jurisdiction in other states to collect taxes owed by delinquent taxpayers that leave this state.
- A considerable amount of time elapses from the date of non-payment by a taxpayer to the date actual collection efforts begin. As much as 16.5 months can elapse before the account is assigned to an analyst/tax officer for collection.
- Since May 5, 1998, the Department has not had an effective contract with an out-of-state collection agency that can pursue delinquent taxpayers that leave the state.
- There was no evidence that the Department has pursued the principal owners of businesses or the officers, directors, or managers of corporations for payment of sales and withholding taxes owed, as allowed by R.S. 47:1561.1.
- The Department does not have policies and procedures to ensure that refunds are not issued to individual taxpayers whose business accounts have been placed in uncollectible status.
- The Department does not provide adequate documentation to verify that all attempts to effect collection have been completed before a taxpayer's account is deemed uncollectible.
- The Department does not have adequate disclosure in accordance with R.S.39:79(C) regarding the reporting of debts and receivables owed to the department. As of June 30, 1999, the Department had unreported proposed assessments of system taxes alone for \$870 million.
- The Department is not charging off uncollectible receivables in a timely manner.
- The Department only bills taxpayers for amounts due that exceed \$9.99 for each tax period.
- The Department is allowed by R.S. 47:1562-1573 to levy upon or seize property or the rights to property of delinquent taxpayers. Over the past three years, the Department has not performed any real property seizures to satisfy a taxpayer's debt.

OPTION 1: Create a computerized database, which could be used by all state agencies, to house information on individuals and businesses that write NSF checks.

Description and Background: Creation of a statewide database will require a coordinated effort among all agencies. Each agency would be responsible for updating

the database with NSF check writers as well as updates to reflect collections of the NSF checks. The Louisiana Data Base Commission is currently working with the Treasury and the Department of Public Safety to establish a policy plan for the implementation of such a database. In order to address the privacy and confidentiality issues relative to personal information, DPS is revising existing application forms to obtain authorization for disclosure of personal information as the department deems necessary in its collection efforts.

Estimated Fiscal Impact: The cost to establish such a database will depend on the computer resources required by each agency, including hardware storage requirements, the method used to access the database, i.e. web based application, and the up-front programming requirements. Maintenance costs will depend upon the requirements of the database. However, due to the proprietary nature of the information, security measures would need to be established to ensure appropriate access controls. Additional personnel would be required to administer this database. Exact costs cannot be determined at this time.

Action Required To Implement: Further study is required to determine the most appropriate agency (Department of Public Safety and Corrections, Treasury or the Division of Administration) to adopt rules relative to creation, implementation and maintenance of the database. Legislation is necessary to require that all agencies utilize and update this database as needed.

OPTION 2: Establish a comprehensive receivable and collection policy and procedure which would include the requirement that all state agencies use the receivable and collections procedures. The policy would also include a separate policy directive relative to NSF checks.

Description and Background: Information was obtained from seventeen other states to determine accounting or collection procedures and reporting criteria (*see Appendix pp. 53-57*). All responding states age their receivables monthly. The general consensus is that the receivable is past due after 30 days, and each consecutive 30 days past due makes it much less likely that the receivables will be collected. Six of these states have a central accounts receivable system that allows each agency to establish its own policies and procedures. All these states utilize private collection agencies and the Attorney General's office for collections even if a central collection agency has been established within their state organization. Other states allow the use of offsets against tax refunds, unemployment benefits, federal levies and lottery winnings. Other collections methods used include garnishments, warrants or voucher intercepts and revenue recapture. Once all available methods have been tried, the account can be written off using procedures established for financial statement reporting. Attached are copies of proposals submitted by the Division of Administration and the Treasury for a comprehensive collections/receivables policy under the Cash Management Review Board and a separate Policy Directive relative to collection of NSF checks (*see Appendix pp. 59-69*).

Significant factors of both proposals include: a shortened time frame to implement collection efforts and involvement of law enforcement agencies in these efforts.

Estimated Fiscal Impact: Fiscal Impact can not be determined at this time.

Action Required To Implement: Legislation would require the adoption of rules for a comprehensive policy and procedure to be used by all state agencies. Further study is required to determine if this authority should be placed with the Cash Management Review Board or with the Division of Administration.

OPTION 3: Establish a central collection function within the Division of Administration or other state agency and further require participation by all state agencies.

Description and Background: Five of the 50 states currently have a functioning statewide collection agency (*see Appendix pp. 71-75*). These agencies are self-funded; most assess a percentage of the amount collected before monies are remitted to the appropriate agency. Excess fees received by a central collection agency, once it is self-supporting, can be transferred to the General Fund, or used by other internal collections functions. The establishment of this agency has been very beneficial to these states. The results: collections of outstanding accounts receivables have greatly increased, providing additional funds for each state; fees charged by outside collection agencies has declined; payments by debtors are becoming timelier; and agencies with their own in-house collections sections focus on collecting current receivables and can turn over longer term outstanding debts to the central collections agency. Participating agencies and departments in these states (including colleges and universities) submitted defaulted student loans, hospital charges, delinquent taxes, insufficient funds checks, library charges, pension system overpayments, and delinquent child support payments to the central collections functions. All five states with a statewide collection agency also use outside collection agencies. The creation of a central collection function does not appear to end the need for contracted collection agencies. It seems to only centralize the function of contracting with outside collection firms and provide another layer of collection activities. It appears that more state agencies participate in these programs once their usefulness is proven. Along with the increasing number of state agencies, several states have passed legislation that allows counties, municipalities and district courts to participate in the central collection function.

Estimated Fiscal Impact: Minnesota's collection agency has increased collections from \$3 million in 1994 to \$12 million in 2000; collections in Kansas increased from \$6.2 million in fiscal year 1996 to \$10.7 million in fiscal year 2000; and in Utah, old accounts receivable collections nearly doubled between fiscal year 1999 (\$1.4 million) and year 2000 (\$2.5 million). If a new agency is to be established within the Division of Administration, an increase in personnel will be required. Operational costs will also have to be provided for at least one or two years until such agency can become self-supporting. Cost of collection functions in other states ranges from \$620,000 for a staff of 4 in Utah to \$2.4 million for a staff of 50 in Minnesota.

Action Required To Implement: Legislation creating a central collection function, including authority to contract with collection agencies. Legislature would further require participation by all state agencies and possibly include parishes, municipalities and district courts.

OPTION 4: Amend R.S. 47:299.2 to allow for all agencies to use offset of income tax refunds for receivables.

Description and Background: State law currently restricts the use of offsets against individual income tax refunds to the following agencies: Department of Justice- Collections Section, LA Student Financial Assistance Commission- Student Loan Collection Section, The Division of Support Enforcement of the Office of Family Support in the Department of Social Services (DSS) , any other office or facility of DSS and the Department of Health and Hospitals, the Department of Public Safety and Corrections and the Department of Labor.

Estimated Fiscal Impact: Fiscal impact cannot be determined at this time.

Action Required To Implement: Amend R.S. 47:299.2.

OPTION 5: Revise the law to allow for local retailers and others to collect outstanding receivables on behalf of the Department of Wildlife and Fisheries.

Description and Background: The Department of Wildlife and Fisheries (DWF) currently uses local retailers to issue hunting and fishing licenses. Using the new Point of Sale electronic system, a license cannot be issued if the intended recipient has outstanding fines or penalties owed to the DWF. However, the law does not currently allow for these retailers to collect the outstanding amounts on behalf of the state. Revisions to the existing law would allow the local retailers and other who issue licenses and permits on behalf of the state to collect outstanding fines, penalties and other receivables before issuing new and renewal documentation.

Estimated Fiscal Impact: Fiscal impact cannot be determined at this time.

Action Required To Implement: Legislation would allow for agents issuing licenses and permits to collect payment of fines and other penalties owed to DWF.